

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
2003 DEC 12 P 12:12

SHARRON WILKINSON, LORI BISHOP and
BRUCE DORAIS,

Plaintiffs,

v.

I-FLOW CORPORATION,

Defendant

CIVIL ACTION NO. 03-40276-NMG

U.S. DISTRICT COURT
DISTRICT OF MASS.

ANSWER AND JURY DEMAND OF DEFENDANT, I-FLOW CORPORATION

ANSWER

1. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 1 of the Complaint.
2. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 2 of the Complaint.
3. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 3 of the Complaint.
4. The defendant admits the allegations contained in paragraph 4 of the Complaint.
5. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 5 of the Complaint, and calls upon the plaintiffs to prove the same.
6. The defendant admits the allegations contained in paragraph 6 of the Complaint.
7. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 7 of the Complaint, and calls upon the plaintiffs to prove the same.
8. The defendant denies the allegations contained in paragraph 8 of the Complaint.

COUNT I

9. The defendant repeats and incorporates by reference herein its answers to the preceding paragraphs of the Complaint
10. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 10 of the Complaint, and calls upon the plaintiff to prove the same.
11. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 11 of the Complaint, and calls upon the plaintiff to prove the same.
12. The defendant denies the allegations contained in paragraph 12 of the Complaint.
13. The defendant denies the allegations contained in paragraph 13 of the Complaint.
14. The defendant denies the allegations contained in paragraph 14 of the Complaint.

WHEREFORE, the defendant, I-Flow Corporation demands that the Complaint be dismissed and judgment enter for the defendant, with costs and attorneys' fees.

COUNT II

15. The defendant repeats and incorporates by reference herein its answers to the preceding paragraphs of the Complaint.
16. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 16 of the Complaint, and calls upon the plaintiff to prove the same.
17. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 17 of the Complaint, and calls upon the plaintiff to prove the same.
18. The defendant denies the allegations contained in paragraph 18 of the Complaint.

19. The defendant denies the allegations contained in paragraph 19 of the Complaint.

20. The defendant denies the allegations contained in paragraph 20 of the Complaint.

WHEREFORE, the defendant, I-Flow Corporation demands that the Complaint be dismissed and judgment enter for the defendant, with costs and attorneys' fees.

COUNT III

21. The defendant repeats and incorporates by reference herein its answers to the preceding paragraphs of the Complaint.

22. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 22 of the Complaint, and calls upon the plaintiff to prove the same.

23. The defendant lacks sufficient information to either admit or deny the allegations contained in paragraph 23 of the Complaint, and calls upon the plaintiff to prove the same.

24. The defendant denies the allegations contained in paragraph 24 of the Complaint.

25. The defendant denies the allegations contained in paragraph 25 of the Complaint.

26. The defendant denies the allegations contained in paragraph 26 of the Complaint.

WHEREFORE, the defendant, I-Flow Corporation demands that the Complaint be dismissed and judgment enter for the defendant, with costs and attorneys' fees.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

And further answering, the defendant states that no notice of any alleged breach of warranty was given to the defendant, as required by law, and the defendant was thereby prejudiced.

SECOND AFFIRMATIVE DEFENSE

And further answering, the defendant states that it has performed and fulfilled all promises and obligations arising under all applicable warranties and, therefore, the plaintiffs are barred from recovery.

THIRD AFFIRMATIVE DEFENSE

And further answering, the defendant states that it is not liable for breach of implied warranty of merchantability, since any product sold by the defendant was fit for the ordinary purpose for which said product was used.

FOURTH AFFIRMATIVE DEFENSE

And further answering, the defendant states that any product it sold was fit for its particular purpose and, therefore, the plaintiffs are barred from recovery.

FIFTH AFFIRMATIVE DEFENSE

And further answering, the defendant states that it did not breach any express warranties of any kind to any person and/or entity through whom the plaintiffs are entitled to claim.

SIXTH AFFIRMATIVE DEFENSE

And further answering, the defendant states that the Complaint must be dismissed because it fails to state a claim upon which relief may be granted.

SEVENTH AFFIRMATIVE DEFENSE

And further answering, the defendant states that if the plaintiffs sustained damages, as alleged, which the defendant denies, such damages were caused by someone for whose conduct the defendant was not and is not legally responsible.

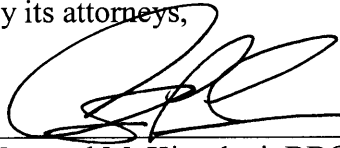
EIGHTH AFFIRMATIVE DEFENSE

And further answering, the defendant states that this action is barred by the applicable Statute of Limitations.

JURY DEMAND

THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL ISSUES.

I-Flow Corporation,
By its attorneys,

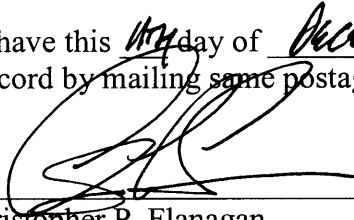


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Dated: 12/11/03

CERTIFICATE OF SERVICE

I, Christopher P. Flanagan, hereby certify that I have this 11th day of December, 2003, served a copy of the foregoing upon counsel of record by mailing same postage prepaid.



Christopher P. Flanagan